

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION**

**ALDEMIRA SANDOVAL,**  
Plaintiff,

v.

**STATE FARM LLOYDS AND  
JAY OSPINA,**  
Defendants.

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CASE NO. \_\_\_\_\_

**DEFENDANTS STATE FARM LLOYDS' AND JAY OSPINA'S NOTICE OF REMOVAL**

Defendants State Farm Lloyds and Jay Ospina file this Notice of Removal.

**PROCEDURAL BACKGROUND**

1. Plaintiff Aldemira Sandoval<sup>1</sup> filed this action on March 30, 2016 against State Farm Lloyds and Jay Ospina in the 111<sup>st</sup> Judicial District Court of Webb County, Texas. That case was docketed under cause number 2016-CVF000807 D2 (the "State Court Action").

2. State Farm Lloyds was served with process on April 21, 2016. There is no return of service on file for Defendant Jay Ospina.

3. On May 9, 2016, both State Farm Lloyds and Jay Ospina filed their Original Answer to Plaintiff's Original Petition in the State Court Action.

4. State Farm Lloyds and Jay Ospina timely file this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 111<sup>th</sup> Judicial District Court

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<sup>1</sup> Correct name of Plaintiff is Adelmira Sandoval.

of Webb County, Texas to the United States District Court for the Southern District of Texas, Laredo Division.

5. Plaintiff's Original Petition filed in the State Court Action included a jury demand.

#### **NATURE OF THE SUIT**

6. The State Court Action which has been filed by Plaintiff Aldemira Sandoval involves a dispute over the alleged non-payment of insurance benefits and the handling of Plaintiff's claims for damages allegedly caused by a wind and hailstorm on May 9, 2014. See *Plaintiffs' Original Petition* at ¶ 12. Plaintiff asserts causes of action against Defendants including for violations of Chapters 541 & 542 of the Texas Insurance Code, breach of contract, fraud, conspiracy to commit fraud, and breach of duty of good faith and fair dealing. *Id.* at ¶¶ 41-61.

#### **BASIS FOR REMOVAL**

7. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all real parties in interest (Plaintiff, State Farm Lloyds and Jay Ospina) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

8. At the time the State Court Action was commenced, Plaintiff was and still is a resident and citizen of Texas residing in Webb County.

9. Defendant State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a "Lloyd's Plan" organized under chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens

and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes. See *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

10. Defendant Jay Ospina was and still is a resident and citizen of Florida (Palm Beach County).

11. Plaintiff's Original Petition asserts "This case involves complex issues and will require extensive discovery." *Id.* at ¶ 1. Plaintiff further states he "is currently seeking monetary relief over \$100,000.00 but not more than \$200,000.00." *Id.* at ¶ 5. In addition, Plaintiff seeks treble damages under the Texas Insurance Code, statutory penalty interest and consequential damages, attorney's fees and additional punitive/exemplary damages.

12. Thus, it is "facially apparent" from the Petition that the claim likely exceeds \$75,000, and the amount in controversy requirement for diversity jurisdiction. Accordingly, the amount in controversy requirement for removal is satisfied.<sup>2</sup>

### **REMOVAL IS PROCEDURALLY CORRECT**

13. Removal is procedurally correct.

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<sup>2</sup> See, *Arriaga v. Midland Funding LLC*, No. 3:14-CV-4044-M, 2015 U.S. Dist. LEXIS 16661, 2015 WL 567264, at \*3 (N.D. Tex. Feb. 11, 2015)(it was facially apparent that damages exceeded \$75,000, where Plaintiff's alleged damages over \$100,000 but less than \$200,000 ; *TFHSP LLC Series 605 v. Lakeview Loan Servicing, LLC*, No. 3:14-CV-1782-B, 2014 U.S. Dist. LEXIS 156060, 2014 WL 5786949, at \*4 (N.D. Tex. Nov. 3, 2014)("[I]f Plaintiff had designated the option listed under Rule 47(c)(3), . . . the Court would have been able to conclude that the amount in controversy exceeds the \$75,000 requirement, assuming plaintiff stated its request for damages in good faith.").

14. This Notice of Removal is timely under 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6 because State Farm Lloyds was served with process on April 21, 2016.

15. Venue is proper in this Division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

16. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants in the State Court Action are attached herein to the Index of Matters Filed (Exhibits 2A – 2D).

17. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of Defendants' Original Notice of Removal was promptly given to all parties and to the clerk of the 111<sup>th</sup> Judicial District Court of Webb County, Texas.

18. All documents required by Local Rule 81 to be filed with this Notice of Removal are attached herein to the Index of Matters Filed (Exhibits 2A – 2D).

#### **PRAYER**

State Farm Lloyds and Jay Ospina respectfully request that the State Court Action be removed and placed on this Court's docket for further proceedings. State Farm Lloyds and Jay Ospina also request any additional relief to which they may be justly entitled.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

This will certify that a true and correct copy of this document was served on all counsel of record on the 16<sup>th</sup> day of May, 2016, as indicated below:

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